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EXAMINER

KEE, FANNIE C

ART UNIT	PAPER NUMBER
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3679

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/559,621	Applicant(s) SLUNICK ET AL.	
	Examiner Fannie Kee	Art Unit 3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 July 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 13-18 and 20-29 is/are pending in the application.
- 4a) Of the above claim(s) 13, 14 and 26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 15-18, 20-25, and 27-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 September 2007 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claims 13, 14, and 26 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species.
 - a. Claims 13, 14, and 26 are drawn to the embodiment of Species II wherein a metal tube is received by the plastic manifold.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the at least one notch including a first notch, and a second notch diametrically opposed to the first notch must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.
3. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an

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application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

4. Claim 15 is objected to because of the following informalities: add an --s-- to the end of the word ‘step’ in line 1.

Correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 20 and 27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 20 recites “wherein said at least one locating feature includes a first locating feature and a second locating feature, and said fluid port includes said first locating feature and said tube includes said second locating feature”. It appears that Applicant is trying to say that the assembly includes a first locating feature and a second locating feature, one of which is located on the fluid port and the other which is located on the tube. If this understanding is correct, then

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Applicant needs to amend the claims as such. As claim 20 now stands, it is still indefinite.

Examiner is interpreting that Applicant means that the assembly includes first and second locating features located respectively on the fluid port and the tube.

Claim 27 recites “wherein the at least one notch includes a first notch, and a second notch diametrically opposed to the first notch”. Is Applicant trying to say that the at least one notch includes a first notch and a second notch? Or is Applicant trying to say the assembly includes a first notch and a second notch? Also, is Applicant trying to claim that the at least one locating feature includes a first notch and a second notch? It is not clear what Applicant is trying to claim. How can the at least one notch include a first notch and then a second notch diametrically opposed to the first notch? Examiner is interpreting that as long as there is a first and a second notch, then this claim limitation has been met.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 1-9, 15-18, 20, 22-25, and 27-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over McDonald U.S. Patent No. 2,195,492 in view of Bawa U.S. Patent No. 3,747,960.

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With regard to claim 1, McDonald discloses a fluid connection assembly comprising:

- a housing (A) including a fluid port, and the housing is made of a first material;
- a tube (B) wherein the fluid port and the tube are coaxial along a longitudinal axis defined by the fluid port;
- a seal (6) located between the tube and the fluid port;
- a retainer (C) to secure the fluid port to the tube;
- and at least one locating feature (13) having at least one notch, wherein the at least one notch receives a portion of the retainer to prevent relative rotation between the fluid port of the housing and the tube about the longitudinal axis defined by the fluid port.

McDonald does not disclose that the tube is made of a second material dissimilar to the first material. Bawa teaches that different types of material can be used depending on the environment and what materials might be needed for that particular environment (column 3, lines 35-41 and 43-50).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have formed the tube to be of a material dissimilar to the first material of the housing depending on the environment and what materials might be needed for that particular environment as taught by Bawa and because it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

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With regard to claim 2, McDonald in view of Bawa disclose the second material being metal but do not disclose that the first material is plastic.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have formed the first material to be plastic because it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

With regard to claim 3, McDonald in view of Bawa disclose the housing (A) being a manifold.

With regard to claim 4, McDonald in view of Bawa disclose the claimed invention but do not expressly disclose that the tube is aluminum.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have formed the tube to be aluminum because it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

With regard to claim 5, McDonald in view of Bawa disclose the claimed invention but do not disclose that the retainer is plastic.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have formed the retainer to be plastic because it has been held to be within the

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general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

With regard to claim 6, McDonald in view of Bawa disclose the fluid port (A) being inserted into the tube, and the fluid port (A) including an annular collar (3) and the tube including a flared end (12) that abuts the annular collar.

With regard to claim 7, McDonald in view of Bawa disclose the retainer (C) being molded over the annular collar of the fluid port and the flared end of the tube.

With regard to claim 8, McDonald in view of Bawa disclose the fluid port including at least one annular recess that receives the seal (6).

With regard to claim 9, McDonald in view of Bawa disclose at least one of the fluid port and the tube including the at least one locating feature (13), and the material of the retainer is received in the at least one locating feature to prevent relative rotation between the fluid port of the housing and the tube.

With regard to claim 15, McDonald discloses a method of assembling a fluid connection comprising the step of:

attaching a fluid port (A) of a housing to a metal tube (B), wherein the fluid port and the tube are coaxial along a longitudinal axis defined by the fluid port;

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locating a seal (6) between the metal tube and the fluid port;
forming a first notch (notch between 3 and 10) in the fluid port and a second notch (13) in the metal tube;
retaining the fluid port to the metal tube; and
preventing rotation between the fluid port of the plastic housing and the metal tube about the longitudinal axis by flowing a material into the first notch and the second notch during the step of retaining the fluid port to the metal tube.

McDonald does not disclose that the housing is made of plastic. Bawa teaches that different types of material can be used depending on the environment and what materials might be needed for that particular environment (column 3, lines 35-41 and 43-50).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have formed the housing to be of plastic depending on the environment and what materials might be needed for that particular environment as taught by Bawa and because it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

With regard to claim 16, McDonald in view of Bawa disclose the step of inserting the fluid port (A) into the metal tube (B).

With regard to claim 17, McDonald in view of Bawa disclose the step of preventing over insertion of the metal tube during the step of inserting the fluid port into the metal tube.

With regard to claim 18, McDonald in view of Bawa disclose the step of retaining including molding a retainer (C) over a joint of the metal tube and the fluid housing but do not disclose that the retainer is plastic.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have formed the retainer to be plastic because it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

With regard to claim 20, McDonald in view of Bawa disclose said at least one locating feature including a first locating feature (feature between 3 and 10) and a second locating feature (13), and said fluid port including said first locating feature and said tube including said second locating feature.

With regard to claim 22, McDonald in view of Bawa disclose said fluid connection assembly being part of a water heater system.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the fluid connection assembly to be a part of a water heater system because a recitation with respect to the manner in which an apparatus is intended to be employed does not impose any structural limitation upon the claimed apparatus which differentiates it from a prior art reference disclosing the structural limitations of the claim. In re Pearson, 494 F.2d 1399, 181 USPQ 641 (CCPA 1974); In re Yanush, 477 F.2d 958, 177 USPQ 705 (CCPA 1973); In re

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Finsterwalder, 436 F.2d 1028, 168 USPQ 530 (CCPA 1971); In re Casey, 370 F.2d 576, 152 USPQ 235 (CCPA 1967); In re Otto, 312 F.2d 937, 136 USPQ 458 (CCPA 1963); Ex parte Masham, 2 USPQ2d 1647 (BdPatApp & Inter 1987).

With regard to claim 23, McDonald in view of Bawa disclose said fluid connection assembly being part of an air conditioning system.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the fluid connection assembly to be a part of an air conditioning system because a recitation with respect to the manner in which an apparatus is intended to be employed does not impose any structural limitation upon the claimed apparatus which differentiates it from a prior art reference disclosing the structural limitations of the claim. In re Pearson, 494 F.2d 1399, 181 USPQ 641 (CCPA 1974); In re Yanush, 477 F.2d 958, 177 USPQ 705 (CCPA 1973); In re Finsterwalder, 436 F.2d 1028, 168 USPQ 530 (CCPA 1971); In re Casey, 370 F.2d 576, 152 USPQ 235 (CCPA 1967); In re Otto, 312 F.2d 937, 136 USPQ 458 (CCPA 1963); Ex parte Masham, 2 USPQ2d 1647 (BdPatApp & Inter 1987).

With regard to claim 24, McDonald in view of Bawa disclose said fluid connection assembly being part of a hydraulic system.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the fluid connection assembly to be a part of a hydraulic system because a recitation with respect to the manner in which an apparatus is intended to be employed does not impose any structural limitation upon the claimed apparatus which differentiates it from a prior

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art reference disclosing the structural limitations of the claim. In re Pearson, 494 F.2d 1399, 181 USPQ 641 (CCPA 1974); In re Yanush, 477 F.2d 958, 177 USPQ 705 (CCPA 1973); In re Finsterwalder, 436 F.2d 1028, 168 USPQ 530 (CCPA 1971); In re Casey, 370 F.2d 576, 152 USPQ 235 (CCPA 1967); In re Otto, 312 F.2d 937, 136 USPQ 458 (CCPA 1963); Ex parte Masham, 2 USPQ2d 1647 (BdPatApp & Inter 1987).

With regard to claim 25, McDonald in view of Bawa disclose the at least one locating feature (13) receiving the retainer (C), and wherein the retainer is molded over the at least one locating feature.

With regard to claim 27, McDonald in view of Bawa disclose the at least one notch including a first notch (13), and a second notch (between 3 and 10) diametrically opposed to the first notch.

With regard to claim 28, McDonald in view of Bawa disclose the first notch (between 3 and 10) extending along a portion of a circumference of the fluid port, the fluid port circumference portion being less than the entire circumference of the fluid port, and wherein the second notch (13 – see Figure 2) extends along a portion of a circumference of the metal tube, the metal tube circumference portion being less than the entire circumference of the metal tube.

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With regard to claim 29, McDonald in view of Bawa disclose the at least one notch (13 – see Figure 2) extends along a portion of a circumference of the at least one locating feature, the portion being less than the entire circumference of the at least one locating feature.

Allowable Subject Matter

9. Claim 21 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

With regard to claim 21, the prior art of record does not teach or suggest that a first locating feature is formed on an annular collar of a fluid port, and a second locating feature is formed on a flared end of a tube in combination with the fluid connection assembly of claims 1 and 20.

Response to Arguments

10. Applicant's arguments with respect to claims 1-9, 15-18, 20-25, and 27-29 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fannie Kee whose telephone number is (571) 272-1820. The examiner can normally be reached on 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571) 272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Aaron M Dunwoody/
Primary Examiner, Art Unit 3679

/F. K./
Examiner, Art Unit 3679
November 21, 2009